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Conference

1 UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF NEW YORK

3 TRAVELERS INDEMNITY COMPANY, et al.,

4 Plaintiffs,

5 v.

12 Civ. 3040 (KBF)

6 NORTHROP GRUMMAN CORPORATION, et al.,

7 Defendants.

8 -----x
9 New York, N.Y.
March 13, 2013
10:09 a.m.

10 Before:

11 HON. KATHERINE B. FORREST

12 District Judge

13 APPEARANCES

14 SIMPSON THACHER & BARTLETT LLP

15 Attorneys for Plaintiffs

16 BY: MARY BETH FORSHAW

LYNN K. NEUNER

MEGHAN E. CANNELLA

17 IAN R. DATTNER

18 WHITE & WILLIAMS, LLP

19 Attorneys for Defendant Century

20 BY: GUY A. CELLUCCI

SHANE HESKIN

21 COVINGTON & BURLING LLP

22 Attorneys for Defendant Northrop Grumman

23 BY: GEORGIA KAZAKIS

RICHARD LAIRD HART

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1 THE CLERK: In the matter of Travelers Indemnity
2 Company, et al. versus Northrop Grumman Corporation, et al., 12
3 Cv. 3040.

4 Counsel, please state your names for the record.

5 MS. FORSHAW: Mary Beth Forshaw, Simpson, Thacher &
6 Bartlett, for the plaintiffs, and with me are my colleagues
7 Lynn Neuner, Meghan Cannella and Ian Dattner, who is fairly new
8 to our team, your Honor.

9 THE COURT: All right. Good morning, everyone.

10 MR. CELLUCCI: Good morning, your Honor. Guy Cellucci
11 from White & Williams, for Century Indemnity, along with my
12 partner Shane Heskin, also for Century Indemnity.

13 THE COURT: Good morning.

14 MS. KAZAKIS: Good morning, your Honor. Georgia
15 Kazakis, Covington, on behalf of Northrop Grumman, and I have
16 my colleague Laird Hart with me.

17 THE COURT: Good morning, everyone.

18 All right. We are here today for a status conference
19 that has not been previously scheduled, apart from the schedule
20 that I gave before just a couple of days ago. That really came
21 from the request by I think it was by Travelers to have a
22 conference. Initially, I think I am going to call it a hook
23 was related to what was then one of the outstanding letter
24 motions, which I think I resolved that day or the next day.

25 In any event, there were other and I think I have

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1 resolved -- and remind me -- at least I've resolved each of the
2 outstanding letter motions that actually had requests for
3 relief in them. There was, however, some back and forth
4 yesterday and the day before on what I would call sort of
5 other, which was the general sort of statements regarding
6 people's views as to how diligent other people are or are not
7 being with respect to scheduling of depositions, etc., etc.

8 I will tell you that having waded through the other
9 discovery disputes, when I got to the back and the forth, I
10 sort of skated over it fairly lightly and saw that you folks
11 were disputing and arguing as to who was being diligent and not
12 diligent and people were claiming that other people were not
13 being quite -- I decided I would just hear from you. Because I
14 didn't want anybody to feel like I was relying upon
15 misrepresentations or alleged misrepresentations as to things.

16 So basically assume that what I have in mind is that
17 we're proceeding apace, that you may want to talk to me about
18 if I've done great damage with any of my rulings, though I
19 don't want you to argue for reconsideration, but if I'm doing
20 great damage, tell me. Because there may be things that I am
21 unaware of that I've done that -- or I may be aware of -- I
22 mean, I think I'm aware of them, but if I'm causing somebody to
23 do, you know, something extraordinary and burdensome, there
24 maybe another way of doing something.

25 But essentially I think that, apart from complying

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1 with the rulings, we're proceeding apace, and you folks are
2 going to keep on working things out and we don't need any real
3 intervention right now apart from I don't know if we need to
4 fiddle with some dates -- we are not going to fiddle with the
5 trial date but we may need to fiddle with some interim dates.

6 Talk to me. All right, Ms. Forshaw.

7 MS. FORSHAW: Sure. Thank you, your Honor, for seeing
8 us today.

9 We asked for this conference with two things in mind.
10 First, we'd like to establish a reasonable schedule to deal
11 with some issues associated with Northrop Grumman's privilege
12 log. We think if we together set some deadlines, that will be
13 helpful in making sure this case does proceed apace; and,
14 second, we would just like to get on the record what we think
15 is a rational schedule for dealing with depositions of Northrop
16 Grumman's witnesses.

17 I want to start, just to clear up any
18 misunderstanding, we are not here to move any discovery
19 deadline. We respect the November 4th trial date, and we are
20 not here to ask you to tinker with that. What we want to do is
21 just establish this framework to get some of these collateral
22 issues out of the way so we can get discovery done --

23 THE COURT: OK. And so --

24 MS. FORSHAW: -- and try and be productive.

25 THE COURT: All right. That sounds, as you know, like

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1 music to my ears.

2 MS. FORSHAW: Sure.

3 THE COURT: I would like to keep the outer dates, and
4 if we can work with the inner dates some.

5 MS. FORSHAW: Sure.

6 THE COURT: Right now, just so that I think we are all
7 on the same page, the last order that set the schedule for the
8 discovery was the January 22nd order?

9 MS. FORSHAW: Yes.

10 THE COURT: That's the one that had the phase one fact
11 discovery June 28 and expert discovery August 15.

12 MS. FORSHAW: Correct.

13 THE COURT: OK. So working from that, what is your
14 proposal on both the log -- and you need to sort of maybe give
15 me one line on the log.

16 MS. FORSHAW: Sure. Let me give you a little bit of
17 background. I will give you four lines.

18 We were here on January 22nd, and it was our
19 understanding, based on representations then, that Northrop
20 Grumman's document production was complete. That's what was
21 said. Since then seven supplemental productions have happened.
22 We've gotten 500,000, approximately, additional documents.
23 We're still waiting to hear if their production is in fact
24 done. We have questions about some categories. I am not going
25 burden you with that today. But we would like to get responses

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1 to specific inquiries that we started making in November and
2 reiterated in March.

3 THE COURT: Inquiries relating to?

4 MS. FORSHAW: To the production of documents from the
5 CFO's office, documents relating to audit committee activities,
6 board of director activities, and the search for files of the
7 risk management department, all of which we think are highly
8 relevant in this case.

9 THE COURT: You have laid those issues out at least
10 one or more times?

11 MS. FORSHAW: Yes. We raised those issues after the
12 last status conference in the hallway. In addition, we've
13 written letters and we haven't gotten any responses.

14 In addition, Century has sent inquiries asking whether
15 we have received all of the documents that were tagged for
16 copying up and down the Eastern Seaboard prior to January 22nd,
17 of that conference and, in addition, you know, whether there
18 are other documents that we should expect we haven't heard.

19 But putting that aside, we have received five
20 privilege logs, as we indicated to you in our letter seeking
21 this conference. The two most recent logs were February 1 and
22 February 8. We sent a global letter to Northrop Grumman on
23 February 15th raising questions about the five logs we had
24 received up to that point. We decided to deal with the
25 privilege log concerns we had globally.

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1 We have concerns about the structure of the logs.
2 There are no identifications of who the people are who are on
3 the log. There is a list of attorneys but there is no
4 identification of the literally hundreds of other people. It's
5 clear to us from what we know from doing a deep dive into the
6 documents that many, many, many -- we're talking thousands --
7 of documents on the log have been shared with third parties
8 such as Northrop Grumman's insurance broker. There are over
9 600 documents that fall into that category that we have been
10 able to identify without the affiliations.

11 In addition, there are literally thousands of
12 documents that have been shared with environmental consultants.
13 Those are consultants whose fees we're being asked to pay for
14 in this litigation. They are not lawyers. They are, you know,
15 people who come in on remediation and the like, we think.

16 So we raised a whole bunch of issues about serious
17 concerns about the 18,500 documents on the log. Many, many of
18 the documents are being withheld based on work product, and all
19 the log says is "In anticipation of litigation." There is no
20 identification of the litigation. Many of the entries go back
21 to the 1990s, the early 2000s. We can't figure out what
22 litigation they are talking about.

23 THE COURT: Of course, many of yours go back --

24 MS. FORSHAW: Sure. But we identified which sites
25 were at issue. And we've gone through that process, and you've

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1 upheld some of our assertions and you have rejected others, and
2 we deprivileged documents as well.

3 So the bottom line is we teed up these issues.

4 Northrop Grumman has basically said to us they'll get
5 back to us, they're looking at things. At the same time
6 they're complaining of we're delaying, about not taking their
7 depositions. I think I was crystal clear on January 22nd that
8 I did not want to take depositions until I had all of the
9 documents. I don't want to take my one bite at the apple until
10 I know, you know, how many apples are in the bowl, in other
11 words. I need to know if I have the key documents.

12 The witnesses that they are pressuring us to take are
13 witnesses whose names are all over the privilege log. We want
14 to clear up issues related to the privilege log. We want to
15 get some assurance that their production is complete and that
16 the documents we tagged have been provided to us, and then we
17 will proceed with depositions.

18 Our plan, or our proposal, your Honor, is that we set
19 a deadline of March 20th, which is the deadline that they've
20 thrown out as to when they are going to get back to us next
21 after thinking about the issues we raised on February 15th, set
22 a deadline of March 20th for Northrop Grumman to supplement
23 their log, delist the documents that they're going to delist.
24 We would then propose to file our motion on the propriety of
25 their privilege log on March 28th. We think that will give the

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1 Court an opportunity, given the dispatch with which you have
2 been ruling in this case, to rule in early April. That would
3 give us two-and-a-half months to do the depositions of the
4 Northrop Grumman witnesses, who they have been trying to
5 pressure us to take starting on March 19th, before they even
6 respond to us about the privilege log.

7 We just thought, rather than engage in letter writing
8 with your Honor, that it was sensible to get us all together,
9 have a rational conversation, set the schedule, so everybody's
10 expectations are on a level playing field and we can proceed to
11 finish discovery by June 28th, which is what everybody in this
12 room wants to do.

13 THE COURT: OK.

14 MS. FORSHAW: In the meantime, we are willing to take
15 three depositions of Northrop Grumman's witnesses. The first
16 is a deposition we've asked them for -- Ms. Neuner has had
17 conversations with Ms. Kazakis about this -- their 30(b)(6)
18 witness on their document production and collection -- sorry,
19 my voice is going, I'm getting over the flu. The second
20 witness is the witness on notice that your Honor ordered them
21 to produce in one of your rulings this week, the Monday ruling.
22 And the third witness is -- oh, the witness on the retention of
23 Cahill Gordon, which was also the subject of your Honor's
24 ruling on Monday of this week.

25 We have given Northrop Grumman dates for witnesses

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1 that they asked us to produce for deposition on March 8th. We
2 have provided three deposition dates for fact witnesses and a
3 deposition date of March 28th for a 30(b)(6) witness who will
4 be testifying on 25 topics, and then another 30(b)(6) witness
5 of Travelers will testify on April 3rd on an additional five or
6 six topics.

7 Century has already produced their 30(b)(6) witnesses.

8 THE COURT: All right. Thank you.

9 Does Century have anything to add, or may I take Ms.
10 Forshaw's comments as --

11 MR. CELLUCCI: No, your Honor, not at this time.

12 THE COURT: All right. OK.

13 MR. HESKIN: I'm sorry. I just want to correct just
14 one thing, just to make sure that everything is clear.

15 I thought I heard Ms. Forshaw say that there were
16 500,000 pages of additional documents produced by Grumman since
17 the last status conference. I don't think that is
18 necessarily -- I'm not so sure how accurate that is. There
19 were a substantial amount of documents produced since then. I
20 can't say with certainty that it is 500,000. So I just wanted
21 to correct that just to be clear for the Court.

22 THE COURT: All right. This is obvious. One of you
23 tell me your view as to the various items that have been raised
24 and what you think about this proposal regarding the law, et
25 cetera.

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1 MS. KAZAKIS: Sure. Well, your Honor, let me preface
2 my specific comments by saying that I think what's gone on here
3 is that Travelers has tried to make an end-run around the legal
4 process and is asking the Court essentially to -- trying to
5 co-opt the Court into accepting its view of what the schedule
6 should be. Let me explain that.

7 They have had our logs since November. They have had
8 our first log since November 12th, and they have had four to
9 five logs for over two months. And those logs contain examples
10 of every single concern that they've raised. They waited until
11 February 15th to raise those concerns.

12 THE COURT: Can I just --

13 MS. KAZAKIS: Yes.

14 THE COURT: -- have you pause for a second, because I
15 just want to -- whenever people say that people's agenda is
16 somewhat different, then I'm going to probe. And it may be
17 that it doesn't matter, we are where we are. But I thought
18 that I heard Ms. Forshaw say there were five logs, three of
19 which were produced earlier but two of which were produced in
20 early February, one of which was February 8th; that was the
21 last two. And so a letter a week later that sort of
22 accumulates all of those problems doesn't strike me as really
23 gamesmanship, or are you asserting something different?

24 MS. KAZAKIS: Well, I am asserting that we had their
25 five logs at issue and --

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1 THE COURT: Starting from November to February 8th?

2 MS. KAZAKIS: I believe it was earlier than
3 February 8th.

4 THE COURT: Are there any more coming?

5 MS. KAZAKIS: There will be some coming. Pursuant to
6 an agreement, we agreed that logs will be 60 days after
7 whatever production they were relevant to. We were actually
8 going to be submitting our logs earlier just to move things
9 along.

10 THE COURT: How many more do you think you have?

11 MS. KAZAKIS: I think there should be one more, maybe
12 one or two more. Century actually asked for additional
13 documents on landfills that are not at issue in this
14 litigation, and to the extent that we'll have privileged
15 documents from that, we, of course, logged those.

16 THE COURT: Just so I have a sense, I also wanted to
17 get a sense of when we're going to have the universe of logs,
18 understanding that everybody may find documents here and there
19 that in good faith come in later. But when will the bulk of
20 the universe, you know, what you consider to be your last log,
21 how soon can you get that in so that we can think about what
22 the log process should be?

23 MS. KAZAKIS: Yes, sure.

24 THE COURT: Whether it was me or somebody else.

25 MS. KAZAKIS: Yes. I think we are looking at early

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1 April. And the reason why I'm qualifying that is because what
2 has happened is every time they have come back to the well, we
3 have made every effort to look for documents even though we may
4 not think that they are completely relevant. A really good
5 example is they asked about the Syosset landfill. That is not
6 a landfill that is in phase one. That is not a landfill that
7 was in their complaint or a counterclaim.

8 THE COURT: Is it like the old Bethpage landfill where
9 there may be some issues that it relates to even if the site
10 itself is not an issue?

11 MS. KAZAKIS: We think it is actually a little bit
12 different. For us, Old Bethpage became relevant because it
13 became clear to us that there were documents in their files
14 that related to that facility. But they are making that
15 argument with respect to Syosset. So instead of fighting that
16 and coming here with motions to compel, we said, fine, we'll
17 look at it.

18 One thing to keep in mind, your Honor, is that those
19 landfills are huge superfund PRP sites. In other words it is
20 not just a litigation between Northrop and a plaintiff; there
21 are hundreds of PRPs. And one of the issues that we had was
22 you are asking us to take -- to look for the entire
23 underwriting litigation while producing the entire underwriting
24 litigation -- or, excuse me, the underwriting litigation file,
25 and that would relate to many, many PRPs. In other words,

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1 lawyers going to the depositions of PRPs that have nothing to
2 do with Bethpage, but they want the entire underlying
3 litigation file no matter how big, no matter unrelated. And so
4 we said if that's what you want, that's fine.

5 So when you ask us about how soon our logs will come
6 in and when will be our final log, it is a bit dependent on
7 things like their requests.

8 THE COURT: Understood. But in terms of -- it sounds
9 like you folks had sort of a 60-day timeframe from production
10 to produce the logs. So the early April log presumably relates
11 to some February production.

12 MS. KAZAKIS: Well, what we're doing is we are
13 actually dispensing with the 60 days in order to accomplish our
14 goals and the Court's goal of moving things along. So we're in
15 the process of looking for the entire underlying litigation
16 files that they have asked for. We know that a lot of the
17 stuff will be irrelevant. We are going to make a hard copy
18 production. They are old documents. We're going to have to
19 flip through them, create privilege calls, and we are basically
20 rushing that process so that we can produce the logs much
21 earlier than 60 days.

22 THE COURT: So the April log relates to Syosset only
23 or Syosset plus --

24 MS. KAZAKIS: And Old Bethpage.

25 THE COURT: And Old Bethpage, so both?

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1 MS. KAZAKIS: Yes.

2 THE COURT: Why don't we continue on.

3 So let's assume that we've got these five logs.

4 They're making arguments. You may or may not like the timing
5 or agree or disagree with how they're doing it, but how do you
6 propose we move forward from here based upon disagreements
7 between the parties that may exist as to the information on the
8 log at least at this point but may not once you have produced
9 your revised log on March 20th?

10 MS. KAZAKIS: I think the good news and the reason why
11 this meeting is somewhat mystifying to us is that when we
12 responded to the concerns in writing, we actually agreed to
13 many of the demands. So, for instance, they've asked for
14 corporate affiliations of the individuals identified in the
15 log. I think that is 500-plus individuals. We said fine, not
16 a problem.

17 They also --

18 THE COURT: Does anybody have a copy of either log so
19 I could take a look?

20 MS. NEUNER: I can hand up the binder of logs.

21 THE COURT: That is both theirs and yours? I just
22 want to be able to -- I don't want to only ask for one. I will
23 give it back.

24 MS. NEUNER: Just to be clear, there are five Northrop
25 Grumman logs, but there is the sixth log, which is the AM log,

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1 which is the one you referred to which came on February 8th.
2 And there are in total 440 pages of logs.

3 THE COURT: OK. And they are generally set up the
4 same?

5 MS. NEUNER: Yes, your Honor.

6 THE COURT: All right.

7 MS. KAZAKIS: So, your Honor, they asked for corporate
8 affiliations of individuals on the log, and we said fine. I
9 think there were 500-plus individuals on the log, and we're
10 going to provide a list. We also indicated that we would do
11 that this week or at the very latest March 20th.

12 So, again, this is why we are a little bit confused
13 about the status conference today.

14 In any event -- they also asked us for -- they also
15 asked us, excuse me, about some descriptions that they thought
16 were not quite complete. We looked at that and realized there
17 was a technical error. We also swept through the logs and
18 found about 10 or 15 other examples where that technical glitch
19 had gotten in the way of the description. So that seems to be
20 off the table.

21 They also asked us about the use of "NGC Internal,"
22 because they thought that that indicated the document had been
23 widely disseminated to all employees. And we said, no, we use
24 that to identify documents that were privileged but these
25 authors were not apparent on the face of the log. So we

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1 clarified that.

2 And we also told them that we would be happy to
3 rereview those documents that fell under that category to do
4 what your Honor suggested I think in one of your orders, which
5 is to figure out if some of these can just be produced. We all
6 know that there are ranges and so we are looking at those. And
7 we indicated that we would do rolling productions with the
8 final one being done by March 20th.

9 They also asked us about third-party --

10 THE COURT: So on March 20th -- do you know this
11 letter that Ms. Forshaw is talking about, this February 15th?

12 MS. KAZAKIS: Yes. That is the one we responded to
13 where we laid out what we would agree to.

14 THE COURT: All right. So by March 20th you will have
15 done what it is you've said you are going to do?

16 MS. KAZAKIS: That is exactly right.

17 THE COURT: Now, let me just ask, so I can see whether
18 or not we know we are going to run into a problem, are there
19 things which, Ms. Kazakis, you said you would not do where
20 Travelers has said to you they still want you to do and you
21 folks are at an impasse and you are proceeding to create a log
22 or revisions or take these off the log on March 20th and I am
23 going to hear from Travelers that you have agreed to X number
24 but not Y number?

25 MS. KAZAKIS: No. In fact, in our letter we said with

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1 respect to third-party communications, for instance, we explain
2 that these are communications with third parties that were
3 retained to help lawyers provide legal advice. But we said if
4 they had any particular entry that troubled them, to come and
5 tell us so we would look at it specifically. And we also
6 offered to provide any additional information regarding the
7 role of the third parties. We haven't heard back from them.
8 They haven't taken us up on that offer.

9 THE COURT: I think -- and Ms. Forshaw can correct me
10 if I am wrong -- to try to head off things that are going to be
11 coming to me from coming to me, you might want to include
12 something from a person with knowledge who can describe the
13 retention of the third party, when they were retained, so we
14 can figure out if there are documents prior to the retention,
15 the nature of the retention, and whether or not their role was
16 exclusively in connection with whatever the documents are of
17 the third party in the log relating to that retention. I am
18 not saying for every document. I'm saying you would have John
19 Doe would say environment consultant X was retained by us
20 approximately in this timeframe to work with us on the
21 following things. All the documents you see on the log relate
22 to that work.

23 MS. KAZAKIS: Right.

24 MS. FORSHAW: Your Honor, if I may? I don't mean to
25 interrupt you. But if you want to head off disputes, Ms.

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1 Kazakis could also have somebody represent that they are not
2 seeking coverage for the third-party fees associated with the
3 work that's reflected in the privilege log entry in this case.

4 MS. KAZAKIS: You are wrong.

5 THE COURT: Let me ask, because it may be that
6 attorneys' fees are covered if they get -- I mean, right now
7 let's for a moment -- if Ms. Kazakis were to prevail entirely,
8 do her fees get paid by somebody here in this room?

9 MS. FORSHAW: These are fees not associated with this
10 litigation but fees that fall in the bucket of defense costs
11 that they're seeking under the policy.

12 THE COURT: So those you're saying as a matter of law
13 there will be lots of precedent saying that --

14 MS. FORSHAW: I think it's a legal argument that we
15 have if they're asking us to pay for certain defense costs, the
16 idea that they are logging --

17 THE COURT: You are not going to make that
18 representation?

19 MS. KAZAKIS: Yes. Your Honor, this goes way beyond
20 the issue in dispute.

21 THE COURT: I understand. If people want me to rule
22 on that issue, I am happy to. But I think that the way to do
23 it is for you, Ms. Kazakis, to start off the ball by including
24 as a part of your cover letter, whatever it is going to be with
25 your March 20th thing to Travelers -- when I say "thing," I

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1 mean submission, in whatever form it is going to take -- that
2 will list who the environmental consultant is, the retention,
3 etc. If there are five consultants, you will give a little
4 blurb on each. Ms. Forshaw will say I hear you on what you say
5 but now are you asking us to pay? You could even say -- and
6 head off the back and forth -- and, yes, essentially we believe
7 it is covered. She can then do what she wants to do with that.

8 MS. KAZAKIS: Your Honor, we're willing to provide
9 blurbs on the consultants. But, again, just to be perfectly
10 candid with the Court, we do feel that this in many ways should
11 be the subject of motions practice and that we're in essence --
12 they've actually done an end run around that. We are trying
13 very hard to head off motions, which is why we wrote the
14 letter, and we have requested that they get back to us if they
15 wanted this information. So we feel a little bit bizarre in
16 that we've come into court and now they're asking for it --

17 THE COURT: I hear you.

18 MS. KAZAKIS: But it would have been nice to know,
19 when we sent our letter back on March 6th, that they were
20 willing to accept this information as a way to engage in a
21 productive meet and confer. So I wanted to get that on the
22 record, because we invited this sort of discussion and I'm not
23 sure why it requires Court intervention to have a productive
24 discussion about what we've already offered.

25 We actually also offered for the work product

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1 protection questions that they asked -- and I think Ms. Forshaw
2 alluded to this -- she said there are work product protections.
3 We don't know what litigations they involve, they relate to.
4 And we've offered to provide additional information for
5 documents within specific timeframes related to underlying
6 litigations that are the basis of the work product protection.
7 We offered that on March 6th. We never heard back from them.

8 So we're happy to do that. We would have liked to
9 have had a discussion with them about that to figure out
10 timing. We'll endeavor to do all of that on March 20th. All
11 I'm saying to the Court is that we were here on Tuesday and
12 this is the first that we've heard from them that they might
13 want that, even though we offered it.

14 THE COURT: Why don't we do this so that there is no
15 misunderstanding as to what people may have asked for and not
16 asked for and think that they have conveyed but may not have
17 conveyed. Why don't we by the end of the week have laid on the
18 table, if anybody -- if you, Ms. Forshaw, believe you want
19 anything else or reject any of their proposals in their March 6
20 letter, put it in a letter so that Ms. Kazakis has some ability
21 to respond to it, if she so chooses and deems it appropriate --
22 she may or may not -- in her March 20th thing. Otherwise, it
23 sounds guaranteed that I'm going to get something on
24 March 28th. That may well be true, because you folks may be
25 bound and determined to make me rule on some privilege stuff in

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1 early April, but I would like to head off at the pass the
2 interim questions that often are necessary on certain privilege
3 issues.

4 MS. KAZAKIS: Your Honor, just to make it clear --
5 because, believe me, we have the same goal of cutting off the
6 impasse -- we also agreed to rereview entries that they called
7 into question. There were two exhibits with I think 400-plus
8 entries. We said we are going to review that. We're going to
9 rereview the NTSC internal documents. They raised questions
10 about Dvirka and Bartilucci documents. We're rereviewing
11 those. And we've paid very close attention to the Court's
12 rulings thus far on privilege, and we're obviously going to use
13 that as necessary guidance to our rereview. And that was the
14 point of offering these rolling productions this week and up
15 through March 20th, so that we could get them the documents
16 that we think could be deprivileged and that would give us some
17 time to consider whether or not there are swaths of documents
18 that we might just depriv because even though those are
19 technically privileged and one might argue about it, it is just
20 not worth it and we'll just give it to them.

21 THE COURT: See if you can do it and you can do it
22 under some sort of nonwaiver --

23 MS. KAZAKIS: Exactly.

24 THE COURT: My rules allow sort of a nonwaiver so that
25 for other litigations it is not sort of a blanket waiver. That

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1 is going to assist in depriving a bunch of stuff if you don't
2 want to have to face that down the road in some other
3 litigation.

4 But one thing that you all should do is if I'm going
5 to see these things, anybody who is a lawyer, just help me out
6 and have a little "Esq." after their name, because I know that
7 for you folks these names jump off the page as lawyers; for me
8 they don't. And it is not as if lawyers can magically cloak
9 everything in privilege, but it does -- those entries, which
10 don't have "Esq." draw more immediate initial attention. Then
11 we go to the second level, which are the ones that have Esq.
12 and they are still not privileged, but the ones that don't have
13 Esq.'s may be privileged because it is under the direction of
14 counsel. But help me out with that.

15 MS. KAZAKIS: Yes. We will do that, your Honor; it is
16 not a problem.

17 Just, again, for you to have a broad view of this, we
18 have produced about 2-and-a-half million pages, and those logs
19 have entries that account for just about five percent of the
20 pages; it is a pretty low number. So what I'm representing to
21 the Court is that we tried to take a narrow view of privilege
22 so that we could avoid privilege fights, and what we
23 represented to Travelers was that we're willing to go back and
24 take another look, particularly in light of the fact that we
25 have more guidance from the Court, and try to do everything we

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1 can to avoid it. I don't know if we're going to be able to
2 avoid all disputes, but that was the point of us agreeing to
3 what we agreed and also representing that we would make these
4 rolling productions.

5 THE COURT: OK.

6 MS. KAZAKIS: And the March 20th date is something
7 that we suggested.

8 THE COURT: All right. So here's what we should do
9 for this week, which is you folks need to get on the phone in
10 the next two days and talk to each other so that you can, you
11 know, generally speaking, understand exactly what it is are
12 going to be the headers in your motion to me. All right?
13 Think of it that way. If you are going to raise a point in
14 your motion to me, make sure you have told the other person
15 this is what you need. And they can either say I agree, I have
16 to do that; I'm not going to do that; or I have done that.
17 This is on both sides. So do that this week so that there is a
18 reasonable period of time for you folks to be flexible and be
19 able to respond.

20 Then it sounds like on March 20th, Ms. Kazakis, you
21 are going to do what you do with this pile of logs which
22 responds to the accumulation of points. Maybe you can merge
23 them all into one -- no, maybe that will create havoc. Forget
24 it. You are working with different databases.

25 What you'll do is you'll on March 20th produce that

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1 log, and then also essentially you should think of it as some
2 form of explanation as to what you've done and why you've done
3 it. Because it sounds like Ms. Forshaw is bound and determined
4 if it doesn't correspond, and I don't mean that in a negative
5 way, I mean in drawing an end to this issue --

6 MS. FORSHAW: I need to.

7 THE COURT: -- to raise whatever she deems sufficient,
8 and so protect yourself with your views.

9 So then how does the schedule work for you? On
10 March 28th, she'll write me a letter --

11 MS. FORSHAW: OK.

12 THE COURT: -- and don't go over 15 pages, but if you
13 have to go -- I would like you to go into three, but every once
14 in a while, I do understand you must have a lot of discussions
15 internally about what to put in footnotes and taking out a
16 ruler and measuring the size of your letterhead, and because
17 things are just so three pages that it must take some doing --

18 MS. FORSHAW: That is for Ms. Neuner.

19 THE COURT: -- correct? So which I would like the
20 discovery disputes, because it has given me enough thus far.
21 If I need more, I will ask.

22 But on the privilege, if you feel you need more, then
23 do like either 15 double-spaced or 10 single-spaced, but don't
24 go over 15 pages, because I think that I will ask for more if I
25 need it.

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1 MS. KAZAKIS: Your Honor, if I may?

2 So I am a little confused about the page length here
3 because the issues --

4 THE COURT: I am making this stuff up as I go along
5 because discovery motions are normally three pages.

6 MS. KAZAKIS: Right, which is what we have been doing.

7 THE COURT: That I think has worked, because to the
8 extent I have needed more, I have gotten more. And only in
9 very limited circumstances have people felt the need and it has
10 not been inappropriate, as I said yesterday, to have then a
11 little bit of extra discussion. But -- and that's referring to
12 your reply. It was fine, because there had been I think three
13 submissions on the same topic of the third-party motion.

14 But for this I don't know how much space you are going
15 to need to write them these issues, but I want to decide them.
16 And if turns out that you've got topic one being consultants,
17 and that's going to take you three-quarters of a page alone to
18 get that issue discussed single-spaced, because you are going
19 to need to cite five cases where this has come up before -- I
20 would like the case law. I do read the case law. You folks
21 are educating me on some of these issues. And, by the way, I
22 note that you litigated against each other all over the
23 country, like a traveling show.

24 MS. FORSHAW: At least our clients have, yes.

25 THE COURT: But in any event, you know, what I'm

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1 trying to suggest, Ms. Kazakis, is if you need more than three
2 pages, I understand.

3 MS. KAZAKIS: Is that reciprocal?

4 THE COURT: Yes. I think that you should think of
5 your March 20th submission as your motion for a privilege log.
6 It's not a motion for a protective order. It's just your log.
7 I'm suggesting give her some explanation so that since Ms.
8 Forshaw is suggesting that we go directly into motion practice,
9 that you have had your meet and confer. Essentially, she is
10 saying you have had your meet and confer. I'm suggesting if
11 there is any doubt about that, meet and confer this week. But
12 the end result of the meet and confer is what you give her on
13 March 20th.

14 In other words, I'm not expecting there to be --
15 although, of course, there could always be additional
16 conversations following March 20th. But essentially
17 March 20th you've joined issue, you've accepted what you have
18 accepted, not accepted what you haven't accepted, and you want
19 to explain why you haven't accepted things or why you think
20 that you've done what was necessary under the dispute, if you
21 can. She'll make a motion on March 28th. We need to come up
22 with a date for you to respond; we haven't done that yet. And
23 I will rule promptly thereafter --

24 MS. KAZAKIS: Right.

25 THE COURT: -- as you suggested.

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1 MS. KAZAKIS: I realize that our letter can be as long
2 as it needs to be but --

3 THE COURT: Well, not as long as it needs to be.

4 MS. KAZAKIS: It is not a motion for the court.

5 MS. FORSHAW: March 20th.

6 MS. KAZAKIS: But in terms of the length of motions to
7 compel going forward, I don't know if the Court was giving us
8 additional new guidance --

9 THE COURT: No. God no.

10 MS. KAZAKIS: Because we've done three and we brought
11 these --

12 THE COURT: No, I don't.

13 MS. KAZAKIS: OK.

14 THE COURT: I want, though, with the 18,000 X, you
15 know, pages that are being withheld and this binder that's been
16 handed to me that I just glanced at -- I'm going to give it
17 back, but I just wanted to get a sense of what we are talking
18 about in terms of detail, that to the extent ripening the
19 issues on the privilege log as a group needs more than three
20 pages, that doesn't sound unreasonable to me. And I want to
21 suggest to you folks, bring me the motion on the privilege
22 logs. On the issue that you've joined motions, you've joined
23 issue on, up to this Friday, and at least in terms of what
24 Travelers' problems are with Northrop -- Northrop may not have
25 ripened its motions with respect to all of its Travelers'

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1 issues, I don't know.

2 But as to the Travelers to Northrop, how many pages do
3 you think you need, Ms. Forshaw, because we are going to get
4 the same from Ms. Kazakis?

5 MS. FORSHAW: I think 12 to 15. I will say 15, to be
6 safe.

7 THE COURT: Is it going to be single-spaced or
8 double-spaced.

9 MS. FORSHAW: We can do double-spaced.

10 MS. KAZAKIS: Definitely.

11 THE COURT: Double-spaced. And so you will do up to
12 15 double-spaced. You don't need to do a table of contents or
13 a table of authorities, but you can and it doesn't count as
14 part of your pages. If you are going to cite a bunch of cases,
15 it is helpful for me to have that. I can rip it off and hand
16 it to my clerk to print them.

17 MS. FORSHAW: OK.

18 THE COURT: Ms. Kazakis, then you can respond in a
19 similar length submission. If that's for whatever reason not
20 reasonable, let me know.

21 But how long -- assume she writes 15 pages. Assuming,
22 when I say "she," Ms. Neuner and Ms. Forshaw collaborate and
23 write 15 pages and that you get that and I get that on
24 March 28th and it's on the same variety as you folks have been
25 talking about to date, or not talking about to date. How long

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1 do you think you need?

2 MS. KAZAKIS: Let's see a calendar.

3 THE COURT: She is going to be doing eight calendar
4 days to get it to you. Can you do eight calendar days to get
5 something back to me?

6 MS. KAZAKIS: Yes. Absolutely.

7 THE COURT: All right.

8 MS. KAZAKIS: I actually think that 15 pages will be
9 more than enough. I don't think there are that many issues.
10 There may be a lot of entries, but there are not that many
11 issues. I think you are just going to get a lot of law.

12 THE COURT: Don't feel like you need to use them.

13 MS. KAZAKIS: We are not.

14 THE COURT: Feel free to use just as few pages as you
15 need to use.

16 MS. KAZAKIS: Because I think that you will find that
17 there are a lot of entries but there are very few issues, and
18 so we plan on dispensing it with --

19 THE COURT: That is fine. If you all can do it three
20 and three, even better, but I want to suggest that let's get
21 this done. Let's do the mega log motion in one fell swoop.

22 MS. FORSHAW: Your Honor, can I point out that we've
23 talked about the five Northrop Grumman logs. There's a sixth
24 log in there that Ms. Neuner mentioned, which is the log that
25 we got from Northrop Grumman's counsel associated with a third

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1 party's production. They went through Aon's production and
2 pulled documents back and withheld them as privileged, and
3 that's a separate issue. We wrote about that issue on
4 February 15th. We tried to meet and confer about it during the
5 telephonic meet and confer on February 22.

6 THE COURT: Can you join issue this week and --

7 MS. FORSHAW: We are ready, actually, to file a motion
8 on that.

9 THE COURT: That would be a three-pager.

10 MS. FORSHAW: It is written and three pages should be
11 fine.

12 THE COURT: Have you met and conferred and reached an
13 impasse so --

14 MS. KAZAKIS: Well, your Honor --

15 MS. FORSHAW: I wrote about it on February 15th. I
16 tried to talk about it on February 22nd. Their March 6th
17 letter --

18 THE COURT: When you say "tried," did she cut you off
19 and say I'm not going to talk about this?

20 MS. FORSHAW: She said we're not ready to talk about
21 it and that they're --

22 THE COURT: Well, talk one more time, then.

23 MS. FORSHAW: Their March 6th letter said they will
24 get back to us and we haven't heard anything.

25 THE COURT: This week get back to her so you can

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1 figure out if her letter is worth coming to me or not. I don't
2 want to get things before Ms. Kazakis has had one more chance
3 to either say --

4 MS. KAZAKIS: Well, your Honor, I feel compelled to
5 straighten the record here, because in our letter we said we
6 would get back to them. We had a meet and confer later, and I
7 represented that we would be getting back to them this week in
8 writing. We're also rereviewing those documents.

9 So I -- again, I am puzzled by the confusion here.

10 THE COURT: All right. Well --

11 MS. FORSHAW: I just need to move things along.

12 THE COURT: I don't even know what the issues are,
13 which is I think there is something lovely about that at this
14 point.

15 MS. KAZAKIS: Ignorance is bliss. What you don't know
16 can't hurt you.

17 THE COURT: Right. What I do know is it sounds like
18 there are some process points where you folks don't agree on
19 how far along in the process you are. What I'm suggesting is
20 it sounds like there are two motions, a small one and a bigger
21 one. And let's get that small one done.

22 But I want you, Ms. Kazakis, before I get that to have
23 another opportunity to speak with Ms. Forshaw, because if you
24 say why are you raising this issue, I'm going to do that or we
25 have done that or I will commit to do that, then so be it.

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1 Then that can be taken off the table. And if I never see an
2 Aon motion, I'll know that the meet and confer process worked
3 on either side; either Ms. Kazakis talked to you and Ms.
4 Forshaw into not doing something or taking something, or it
5 wasn't.

6 Then next week you can do the normal process for that.
7 I won't set a schedule for that. You will do it or not do it,
8 as you see fit.

9 MS. FORSHAW: Can I get a commitment from counsel that
10 we're going to get the revised log for Aon also on March 20th?

11 THE COURT: You guys are going to meet and confer.

12 MS. KAZAKIS: We are going to talk about that.

13 THE COURT: We've separated Aon off now.

14 MS. KAZAKIS: So I think we're probably done with the
15 logs. I think I've gone through the list.

16 THE COURT: Right. Let me just make sure we've got
17 the right date. So March 20th you folks are going to exchange
18 logs. If you want to, Ms. Kazakis -- it is simply guidance on
19 the Court's part, it is not an order -- you might want to state
20 your rationale for some of the things that you've done. Then
21 you can cite to it.

22 Then Ms. Forshaw will move, if she deems it still
23 appropriate, in as short a filing she is possibly able to make,
24 but no more than 15 double-spaced pages, relating to issues
25 which were previously raised with you, unless something

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1 extraordinary comes up that you never in a million years could
2 have expected. It doesn't have to be a million years. You
3 should talk about it.

4 MS. FORSHAW: I don't have that many years under my
5 belt.

6 THE COURT: That you should talk about.

7 Then, Ms. Kazakis, you will respond as soon as you can
8 but within eight calendar days.

9 Mr. Pecorino, when is that?

10 THE CLERK: From the 20th?

11 THE COURT: From the 28th.

12 THE CLERK: April 5th.

13 THE COURT: OK. So by April 5 I will have gotten
14 everything I need to get unless you hear from me. Then I will
15 let you know if I need additional information, if I do.

16 MS. KAZAKIS: Your Honor, a couple of other things.

17 THE COURT: Can you hold on a second.

18 (Pause)

19 THE COURT: We've got another six minutes.

20 MS. KAZAKIS: A couple of other things.

21 Ms. Forshaw mentioned depositions. We have provided
22 55 possible deposition dates for the various current and former
23 employees that the insurers had indicated they want to depose,
24 and those dates are over the next four months -- they are in
25 April, May, June -- and there are up to eight available dates

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1 per witness. We would like Travelers and Century to tell us
2 what dates work. We've actually sent a letter out identifying
3 these dates. We got a letter back saying that they would just
4 serve notices in some indefinite future --

5 THE COURT: Can I just cut you off?

6 MS. KAZAKIS: Yes.

7 THE COURT: Only because this has to be a deadlock
8 because there are so many issues. I may have to give you an
9 hour and a half the next time instead of an hour. I gave you
10 twice as much as I give for most conferences.

11 But one of the negating factors that I heard was
12 disputes as to whether or not productions were complete and
13 getting the document issues resolved in order to be able to get
14 one bite at the apple, so there are two points to that but one
15 of them is possibly dispositive.

16 Is your production complete, Ms. Kazakis?

17 MS. KAZAKIS: Well, like I said, barring these
18 additional requests, they are.

19 THE COURT: Putting aside -- I think there were still
20 some custodian issues relating to some folks, right? There
21 were some folks who people were discussing specific inquiries
22 regarding specific custodians, as I understand this.

23 MS. KAZAKIS: They made a number of follow ups, and we
24 have tried to respond to each of those follow ups.

25 THE COURT: OK. So let's do this. I think that we

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1 need a joint issue forever more on the end of the document
2 production, and so I am now going to set some dates for the end
3 of the document production.

4 MS. FORSHAW: Great.

5 THE COURT: Because June 28th is the date for the end
6 of discovery, so I think what we need to do is to make sure
7 that you don't get death by docket, Ms. Kazakis, by having it
8 be a slowed bleed for you. On the other hand, everybody else
9 will also understand that they have a limit when they can raise
10 new issues.

11 So it sounds like the Travelers and Century ought to
12 know who they are seeking additional materials with respect to,
13 and the "who" can be either central files of X or particular
14 names. Why don't you folks send that to Ms. Kazakis by next
15 Monday. And it may be that you've sent it to her twelve times
16 already. Consolidate it into one letter.

17 MS. FORSHAW: We will.

18 THE COURT: Call it the custodian letter.

19 MS. FORSHAW: We will.

20 THE COURT: All right? That way Ms. Kazakis has it on
21 Monday. You meet and confer next week on whether or not she's
22 going to produce things, not produce things, and the timing
23 relating to that production. Whoever feels aggrieved a week
24 from Monday should write me. So that would be the 25th.

25 MS. FORSHAW: OK.

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1 THE COURT: So on the 11th you send to Northrop --
2 "you" being Travelers and Century -- a consolidated letter,
3 dropping off those people you no longer want and including
4 those people who you want, and that's it. Unless there is good
5 cause shown, done. Then -- and if there is good cause shown,
6 there is good cause shown. If there is something that you
7 haven't received yet demonstrates there is a whole theme of
8 documents that you never knew existed and you only get that in
9 April, well, then so be it. That is like everything else.

10 But anything that you reasonably should know about,
11 give to Ms. Kazakis on the list on the 11th. Meet and confer
12 at your convenience next week. It may take several back and
13 forths; one of them may well not do it.

14 Then on the 25th -- is that what I said?

15 MS. FORSHAW: Yes, your Honor.

16 THE COURT: The following Monday.

17 MS. NEUNER: All that we would say is the letter
18 should be 3/18, not 3/11.

19 THE COURT: 3/18. Sorry. You are right. 3/18, 3/25.
20 If nobody feels aggrieved, terrific. I am not going to set
21 dates for when the production has to occur; I am going to let
22 you folks try and negotiate that.

23 If you can't, bring me the letter that will say they
24 won't give me the following custodians, or we want a protective
25 order on the following custodian -- Ms. Kazakis, you can do it

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1 affirmatively, as well -- and they won't give it to us until --
2 they can't commit until April 23rd, and that's too late, all
3 right, so give me whatever you need to give me.

4 Then what I also need is for all of those people, Ms.
5 Forshaw, whose identities you know now you are going to take
6 the depositions of -- and this sounds reminiscent of words I
7 used during our last conference.

8 MS. FORSHAW: Yes. That's how we got to this.

9 THE COURT: Take one of these calendars.

10 MS. FORSHAW: Mm-hmm.

11 THE COURT: Fill in names.

12 MS. FORSHAW: Mm-hmm.

13 THE COURT: And take them off the list of people whose
14 deposition dates are being negotiated.

15 MS. FORSHAW: OK.

16 THE COURT: Because if you are looking for custodians,
17 there have got to be some people, in the way litigation goes,
18 whose depositions you can tell Ms. Kazakis you are going to
19 take now on some of though eight dates, because these people
20 reasonably can't be holding their calendars open for the
21 indefinite future.

22 MS. FORSHAW: Sure, your Honor. The only dispute we
23 had is that they want us to start March 19th.

24 THE COURT: Start whenever you guys -- I mean, I
25 agree.

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1 MS. KAZAKIS: Some of these dates are in June and in
2 May. So I think we can do the calendar bit. I'm not really
3 sure --

4 THE COURT: Sit down with the calendar --

5 MS. KAZAKIS: We will do that.

6 THE COURT: -- and map it out. Include that in the
7 letter. If you are unable to join issue on dates for certain
8 people, include it in your letter on March 25th. All right?

9 So that on March 25th I'll basically get a production
10 deposition. If you want to do one deposition letter and one
11 production letter, I can deal with it; we'll call it the
12 6th and 7th letter motion

13 MS. KAZAKIS: Does that letter go to you, your Honor?

14 THE COURT: Only if you are in disagreement. I don't
15 want to see any of this.

16 MS. KAZAKIS: Right.

17 THE COURT: On the 18th, what's going to happen on the
18 18th, so we're clear, is Century and Travelers are going to
19 send to Northrop -- I know you all call it Grumman but I call
20 it Northrop because I started that way and it is hard for me to
21 switch now, even though all of your papers go back to Grumman
22 and I am aware of that. So on the 18th you folks on Century
23 and Travelers will send to Northrop your list of custodians.
24 Unless you've got good cause, this is it. And "custodians"
25 includes both types, a category of central files and/or

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1 person's name. You will meet and confer over the course of
2 next week on those people.

3 I will receive a letter on March 25th only if you are
4 unable to agree -- otherwise I don't want to hear a word -- as
5 to which custodians you've reached disagreement on and/or the
6 dates of production as to which you are unable to agree, and I
7 will resolve it.

8 You may also raise with me on the 25th, and should
9 raise with me on the 25th, any problems people have with
10 respect to scheduling of depositions, and I will resolve them.
11 And you may give me the dates of people and their availability,
12 and put down, when there are documents, the bulk of their
13 documents were produced and the documents relating to them were
14 produced, because their documents may have been easy. It may
15 have been all of their underlings' documents that came in
16 yesterday that may be more complicated.

17 But if there is a person whose documents are
18 reasonably available and they have been for some time and you
19 can't reach agreement on the date, give me their available
20 dates and I will slot them in. There are a lot of lawyers
21 here; they will take the deposition. And don't even tell me if
22 it is an important person or not an important person; I will
23 just slot it in.

24 What was your name, the fellow right there in front?

25 MS. NEUNER: Mr. Dattner?

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1 THE COURT: Yes.

2 MR. DATNER: Ian Dattner.

3 THE COURT: Maybe you will suddenly zip forward and we
4 will give you some really key, critical depositions.

5 MS. FORSHAW: That is the plan.

6 THE COURT: That is good, right?

7 MS. NEUNER: Your Honor, if I may? Lynn Neuner for
8 Travelers.

9 With respect to the scheduling of depositions, this
10 whole protocol is music to our ears and we're grateful for the
11 Court's guidance.

12 I just wanted to make clear, in furtherance of Ms.
13 Forshaw's statement, that the problem for us in going forward
14 starting the depositions is that a lot of the entries on the
15 logs relate to these individuals. That was really the whole
16 crux of why we came.

17 THE COURT: And that's why so on the 28th your letter
18 is going to go in, and on the 25th I'm going to get the letter.
19 So you will have had the log for five days so you can build
20 that into your letter.

21 MS. NEUNER: Which is great. This structure is the
22 exact rationality we needed. Thank you.

23 THE COURT: Then we will see where we go.

24 So we'll have a letter or letters or none at all on
25 depositions and documents on the 25th. And if you've all

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1 reached agreement, that's the best thing. I really don't have
2 any burning desire to deal with these issues, but I will.

3 And then on the logs Aon is separated out. You'll
4 either agree to disagree and I'll never hear about it, or
5 you'll agree to disagree and I'll hear about it, or you'll all
6 agree and I'll never hear about it. That letter comes in
7 whenever it comes in.

8 The other big log letter comes in on the 28th, with
9 Ms. Kazakis responding on the 5th. I rule thereafter.

10 That is the schedule we've reached so far.

11 MS. KAZAKIS: Your Honor, just so that I'm clear.
12 It's not the Court's view, is it, that we can't schedule a dep
13 in May or June on the presupposition that we're not going to
14 resolve document issues, right? Again, a lot of these
15 witnesses we have available dates in May or June. There was no
16 presupposition that we are not going to get there, right?

17 THE COURT: Here's what I think. I think that if
18 there are ten people -- let's assume there are ten people as to
19 whom you can't reach an immediate agreement and two of them you
20 haven't produced their documents yet. Give them dates in early
21 June. That's what people do, right? And put it down as a
22 placeholder. If it turns out that they claim you gave them the
23 documents on May 25th and that we need to move the date and you
24 can't reach an arrangement, so be it. But you ought to be able
25 to schedule out everything.

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1 I mean, you know, you've all done this, right? I used
2 to schedule out -- in the "old days," I used to schedule out
3 everything in the beginning of the case having no idea when I
4 would get the documents and just work with it.

5 MS. KAZAKIS: That's great. That's exactly what we
6 are aiming for. That sounds good. That will work for us.

7 THE COURT: So then you will adjust it, hopefully by
8 agreement, as the world evolves, or you will bring isolated
9 things to me, but you'll have the universe mapped out which
10 will also assist with your workload between now and June 28th.
11 OK? So let's map out the world.

12 Yes.

13 MR. CELLUCCI: Your Honor, Guy Cellucci for Century.

14 It is just one issue. It is not really a discovery
15 issue. But I don't know your Honor's attitude on oral
16 argument, but there is an outstanding summary judgment motion.
17 Often oral argument is helpful in these types of cases so --

18 THE COURT: Yes. I have your summary judgment paper
19 submissions in my chambers, which is actually a staging area
20 for different things. They make their way in at different
21 stages, which is my practice, and yours are actually in the
22 office. OK? Once they are done, they are out of my office. I
23 have a paperless office except for what I am working on.

24 So you are in my office, and I have not looked at them
25 yet. But I have plans on doing that in the next couple of

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1 weeks, actually, because I am going on spring break with my
2 kids, and my plan is to take your documents --

3 MR. CELLUCCI: Oh, thank you, your Honor, for that.

4 THE COURT: -- while I'm where I'm going to be, but I
5 am not taking all of your voluminous -- except for the
6 policies. I'll take your documents and I'll take the policies.
7 But I assume you guys follow the fact that I have a big
8 insurance docket, for a variety of reasons. So some issues --
9 not like yours, but some law I have run across now. But yours
10 raised very particular issues, much of which I am not familiar
11 with; so I will familiarize myself.

12 You would like oral argument?

13 MR. CELLUCCI: Yes, your Honor.

14 THE COURT: Let's set down oral argument. When were
15 the briefs -- tell me the date the first brief was filed. Just
16 remind me.

17 MS. KAZAKIS: I think they were all filed on the
18 4th of January.

19 THE COURT: January 4th. OK.

20 Joe, we need something in mid-April. That will give
21 me a chance to read things. I will try to send you questions
22 in advance.

23 MS. FORSHAW: Oh, good.

24 THE COURT: But I don't promise that.

25 THE CLERK: How much time, your Honor?

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1 THE COURT: I'm going to need -- these people like to
2 talk. The people back there are waiting. So how about -- I
3 think we will need three hours. Just block an afternoon.

4 THE CLERK: Thursday, April 18th, at 2 p.m.

5 THE COURT: How does that work?

6 MS. FORSHAW: That does not work.

7 MS. NEUNER: I'm sorry, your Honor. It is my
8 children's school vacation that week.

9 THE COURT: I understand that. I am going away next
10 week.

11 Try again.

12 THE CLERK: Thursday, April 25th, at 10 a.m.

13 THE COURT: Does that work?

14 MS. FORSHAW: That works.

15 THE COURT: For everybody?

16 MR. CELLUCCI: Yes, your Honor.

17 MR. HESKIN: At 10 a.m.?

18 THE COURT: 10 a.m. Can we do it at 9?

19 (Pause)

20 Sure. Let's do it at 9 because it gives us until we
21 get hungry.

22 MS. KAZAKIS: Is this on both motions?

23 THE COURT: It is going to be on the pile in my
24 office --

25 MS. KAZAKIS: The piles and piles of paper.

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1 THE COURT: So her pile is in my office.

2 I may send you questions which then will tell you, by
3 the way, I do not need argument on X. So one thing, what you
4 won't have to do is if you were planning on -- I've got to go
5 to the people behind you. If you are planning on writing a big
6 regurgitation of your briefs, don't. Some judges need that
7 because they are not going to -- not here in this district, I'm
8 sure, but there are places where you might travel in parts of
9 the country where you have to stand up and basically tell them
10 what your arguments are. You won't need to do that. Go for
11 the jugular. That's what I'm going to be looking for. And I'm
12 going to interrupt you incessantly, I'll tell you. That's the
13 way I do it with those things now and also oral argument.

14 MS. FORSHAW: Terrific.

15 THE COURT: OK. Thank you.

16 MR. CELLUCCI: Thank you, your Honor.

17 THE COURT: All right. Thank you.

18 MS. NEUNER: Thank very much, your Honor.

19 MS. FORSHAW: Have a nice spring break.

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